

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA,)	
)	
)	
)	
v.)	Criminal No: 09-CR-10330-GAO
)	
(1) STRYKER BIOTECH, LLC,)	
(2) MARK PHILIP,)	
(3) WILLIAM HEPPNER,)	MOTION TO DISMISS COUNT 13
(4) DAVID ARD and)	
(5) JEFFREY WHITAKER,)	
)	
Defendants.)	

STRYKER BIOTECH, LLC'S MOTION TO DISMISS COUNT 13

Pursuant to Local Rule 7.1 and Federal Rule of Criminal Procedure 12, Defendant Stryker Biotech, LLC hereby moves to dismiss Count 13 of the Superseding Indictment as invalid as a matter of law.

Respectfully submitted,

STRYKER BIOTECH, LLC

/s/ Brien T. O'Connor

By: Brien T. O'Connor (BBO #546767)

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LOCAL RULE 7.1(A)(2) CERTIFICATION

I hereby certify that I have contacted Assistant United States Attorney Gregory Noonan, and after conferring in good faith, AUSA Noonan and I were unable to resolve or narrow the issues presented by this motion.

/s/ Aaron M. Katz
Aaron M. Katz

CERTIFICATE OF SERVICE

I hereby certify that this document, filed through the ECF system, will be served electronically to the registered participants identified on the Notice of Electronic Filing (“NEF”), and that paper copies will be sent via electronic mail to those identified on the NEF as non-registered participants on November 16, 2011.

/s/ Aaron M. Katz
Aaron M. Katz